

AMENDED IN ASSEMBLY SEPTEMBER 12, 2001

AMENDED IN ASSEMBLY AUGUST 20, 2001

AMENDED IN SENATE MAY 16, 2001

AMENDED IN SENATE MAY 9, 2001

AMENDED IN SENATE MARCH 8, 2001

SENATE BILL

No. 1

Introduced by Senator Alpert

**(Coauthors: Senators Costa, Johannessen, Karnette, Machado,
and McPherson)**

(Coauthors: Assembly Members Aanestad, Cardoza, Harman, and
Kelley)

December 4, 2000

An act to amend Sections 6420, 6421, and 6423 of, to add Article 2.5 (commencing with Section 6426) to Chapter 5 of Part 1 of Division 6 of, and to repeal and add Section 6425 of, the Fish and Game Code, and to add Division 20.55 (commencing with Section 30951) and Division 20.6 (commencing with Section 30960) to the Public Resources Code, relating to marine preservation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as amended, Alpert. Decommissioned oil platforms and production facilities: California Endowment for Marine Preservation.

(1) Existing law declares that the Pacific Ocean and its rich marine living resources are of great environmental, economic, aesthetic, recreational, educational, scientific, nutritional, social, and historic importance to the people of California. Under existing law, the

Department of Fish and Game administers the California Artificial Reef Program, which includes, as one of its components, the placement of artificial reefs in state waters.

This bill, instead, would describe the placement of artificial reefs as including decommissioned offshore oil platforms in state and federal waters. The bill also would establish the California Endowment for Marine Preservation in order to create a permanent source of funding for projects that will conserve, protect, restore, and enhance the open coastal marine resources of the state. The endowment would be governed by a board of directors, with membership and duties prescribed by the bill.

The bill would require the endowment to coordinate its activities with the Department of Fish and Game, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the State Lands Commission, and appropriate federal agencies.

The bill would specify that no employee of the endowment is an employee of the State of California or subject to specified provisions of existing law governing employer-employee relations.

The bill would create the California Marine Resources Trust Fund for the purpose of creating a permanent source of funding for projects that will conserve, protect, restore, and enhance the open coastal marine resources of the state. The bill would declare this purpose to be a special fund purpose. The bill would prescribe the sole purposes for which the moneys in the fund may be expended. The bill would require the Secretary of the Resources Agency and the Director of Fish and Game to serve as the trustee of the fund. The bill also would create the California Marine Resources Trust Fund Advisory Committee, with membership and duties prescribed by the bill.

The bill would require each owner and operator of certain offshore oil platforms or production facilities in operation on or before January 1, 2001, who chooses to participate and who receives government permits that allow the platform or facility to be converted into an artificial reef, to deposit with the endowment, with the trust fund, and with counties adjacent to the location of the facility, as prescribed, a percentage of the cost savings to the owner or operator from converting the platform or facility into an artificial reef, with certain exceptions, rather than removing the platform or facility. The bill would authorize the endowment to expend the money for specified purposes and would



declare those purposes to be special fund purposes. The authorization to make expenditures of these moneys constitutes an appropriation.

The bill would require the endowment to submit a report to the Legislature concerning, among other things, the operations, activities, and financial condition of the endowment.

The bill would require the Department of Fish and Game to serve as the primary authority for managing and operating artificial reefs created from offshore oil platforms or production facilities. The bill would authorize the department to approve the conversion of an offshore oil platform or production facility into an artificial reef if it will, among other things, be consistent with the Magnuson-Stevens Fishery Conservation and Management Act, the National Fishing Enhancement Act, and state and federal water quality laws, and will meet other specified requirements. The bill would require the department to determine guidelines for biological evaluation of an oil platform or production facility for use as an artificial reef. The bill would require the department, if the responsible state and federal agencies approve the partial decommissioning of one or more oil platforms or production facilities allowing an offshore oil platform or production facility to be converted into an artificial reef, to prohibit all fishing or removal of any marine life from the artificial reef and within a reasonable buffer until the artificial reef has been evaluated by the department pursuant to the Marine Life Protection Act. The bill would also require the department to establish penalties for violations of any prohibition. The bill would authorize the department to allow take for research purposes. The bill would also require the department to report to the Legislature regarding the costs and benefits of the program within 5 years of the first decommissioning of an offshore oil platform or production facility as an artificial reef.

(2) Existing law provides that, unless otherwise specified, any violation of the Fish and Game Code is a misdemeanor.

By requiring the department to prohibit fishing in designated areas and to establish penalties for violations of that prohibition, the bill would create a crime, thereby constituting a state-mandated local program.

(3) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department to carry out the Fish and Game Code.

By imposing new duties on the department, the bill would make an appropriation.



(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6420 of the Fish and Game Code is
2 amended to read:

3 6420. The Legislature finds and declares all of the following:

4 (a) Declines in various southern California marine species of
5 fish have adversely affected the sport and commercial fishing
6 industry.

7 (b) Efforts to enhance these species through the placement of
8 artificial reefs need to be investigated.

9 (c) A program of artificial reef research and development,
10 including reef design, placement, and monitoring, is in the public
11 interest and can best be accomplished under the administration of
12 the department with the cooperation and assistance of the
13 University of California, the California State University, other
14 established, appropriate academic institutions, and other
15 organizations with demonstrated expertise in the field.

16 (d) A state artificial reef research and construction program
17 under the administration of the department is necessary to
18 coordinate ongoing studies and construction of artificial reefs in
19 waters of the state.

20 (e) The state artificial reef program shall be managed pursuant
21 to this article and consistent with the standards and guidelines
22 established under the National Fishing Enhancement Act of 1984.

23 SEC. 2. Section 6421 of the Fish and Game Code is amended
24 to read:

25 6421. For purposes of this article, the following terms have
26 the following meanings:

27 (a) “Artificial reef” means manmade or natural objects
28 intentionally placed in selected areas of the marine environment
29 to duplicate those conditions that induce production of fish and

1 invertebrates on natural reefs and rough bottoms and that stimulate
2 the growth of kelp or other midwater plant life which creates
3 natural habitat for those species.

4 (b) “National Fishing Enhancement Act of 1984” means Title
5 II of Public Law 98-623.

6 (c) “Production” means increases in the biomass of a species
7 or number of species.

8 (d) “Program” means the California Artificial Reef Program.

9 (e) “Reef materials” includes only materials allowed under the
10 National Artificial Reef Plan, adopted under the National Fishing
11 Enhancement Act of 1984 for construction of artificial reefs.

12 SEC. 3. Section 6423 of the Fish and Game Code is amended
13 to read:

14 6423. The program shall include all of the following:

15 (a) The placement of artificial reefs, including
16 decommissioned offshore oil platforms, in state and federal
17 waters.

18 (b) A study of existing successful reefs and all new reefs placed
19 by the program to determine the design criteria needed to construct
20 artificial reefs capable of increasing fish and invertebrate
21 production in waters of the state.

22 (c) A determination of the requirements for reef siting and
23 placement.

24 SEC. 4. Section 6425 of the Fish and Game Code is repealed.

25 SEC. 5. Section 6425 is added to the Fish and Game Code, to
26 read:

27 6425. It is the intent of the Legislature that sources of funding
28 for the program may include, but are not limited to, the Fish and
29 Game Preservation Fund, the California Environmental License
30 Plate Fund, the Wildlife Restoration Fund, park and recreation
31 bond funds, federal grants-in-aid, county fish and game
32 propagation funds, and donations from either private or private
33 nonprofit organizations.

34 SEC. 6. Article 2.5 (commencing with Section 6426) is added
35 to Chapter 5 of Part 1 of Division 6 of the Fish and Game Code,
36 to read:

37



1 Article 2.5. Oil Platforms as Artificial Reefs

2
3 6426. The Legislature hereby finds and declares all of the
4 following:

5 (a) There is an existing permitting process for
6 decommissioning of offshore oil platforms or production
7 facilities.

8 (b) Decommissioning of the offshore oil platforms or
9 production facilities has already occurred and as part of the
10 permitting process there was some consideration given to
11 converting platforms or facilities into artificial reefs.

12 (c) The operator or owner of offshore oil platforms or
13 production facilities would save a considerable sum of money if
14 decommissioning the offshore oil platform or production facility
15 as an artificial reef, or if the removal and use as reef material in a
16 designated area, were allowed by permitting local, state, and
17 federal agencies.

18 (d) The savings that result from that conversion should be
19 shared with the citizens of the State of California.

20 (e) A mechanism is needed to ensure that if local, state, and
21 federal agencies allow the conversion of an offshore oil platform
22 or production facility as an artificial reef, the citizens of the State
23 of California would be able to share in the savings and those shared
24 funds would be used to benefit the open coastal marine resources
25 that lie offshore of California.

26 6426.1. Unless the context requires otherwise, the following
27 definitions govern the construction of this article:

28 (a) “Artificial reef” means manmade or natural objects
29 intentionally placed in selected areas of the marine environment
30 to duplicate those conditions that induce production of fish and
31 invertebrates on natural reefs and rough bottoms and that stimulate
32 the growth of kelp or other midwater plant life which creates
33 natural habitat for those species.

34 (b) “Cost savings” are the difference between the estimated
35 cost to the operator or owner of complete removal of an offshore
36 oil platform or production facility and the costs incurred by the
37 operator or owner of converting a platform or facility into an
38 artificial reef.

39 (c) “Endowment” means the California Endowment for
40 Marine Preservation.

(d) “National Fishing Enhancement Act of 1984” means Title II of Public Law 98-623.

(e) “Offshore oil platform or production facility” means platforms, piers, and artificial islands in operation on or before January 1, 2001, and located seaward of mean lower low water, used for oil and gas exploration, development, production, processing, or storage.

(f) “Oil” means any kind of petroleum, liquid hydrocarbons, natural gas, or petroleum products or any fraction or residues therefrom.

(g) “Open coastal marine resource” means those marine resources that use open coastal waters as their habitat.

(h) “Open coastal waters” means the area composed of the submerged lands of the state that are below the mean lower low water extending seaward to the boundaries of the Exclusive Economic Zone.

(i) “Reef materials” includes only materials allowed under the National Artificial Reef Plan, adopted under the National Fishing Enhancement Act of 1984 for construction of artificial reefs.

(j) “State waters” means waters within the seaward boundary of the state as identified in Section 2 of Article III of the California Constitution.

6426.2. (a) The department shall serve as the primary authority for managing and operating artificial reefs created from offshore oil platforms or production facilities. The department may obtain funds for the planning, development, maintenance, and operation of those artificial reefs and may accept gifts, subventions, grants, rebates, and subsidies from any lawful source. The department may adopt regulations to implement this article.

(b) For the purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the State Lands Commission shall be the lead agency for projects that include the decommissioning of oil platforms or production facilities or appurtenant construction, or both, including pipelines, located in state waters that may be used as artificial reefs pursuant to this act. The department shall be the lead agency when the platform or production facility and appurtenant construction lies solely in federal waters.

(c) The department shall report to the Legislature and the Governor within five years of the date of completion of the first

1 decommissioning of an offshore oil platform or production facility
2 as an artificial reef on the costs and benefits of the program.

3 6426.4. (a) The Legislature further finds and declares all of
4 the following:

5 (1) Offshore oil platforms may function as artificial reefs and
6 provide habitat for many species, including some whose numbers
7 have dropped precipitously.

8 (2) Protection of those species is vital to sustaining sport and
9 commercial fishing opportunities in California.

10 (3) Allowing take at artificial reefs created from offshore oil
11 platforms or production facilities threatens efforts to improve and
12 restore sport and commercial fishing opportunities in California.

13 (b) If the responsible state and federal agencies approve the
14 partial decommissioning of one or more oil platforms or
15 production facilities, allowing an offshore oil platform or
16 production facility to be converted into an artificial reef, either in
17 place or in another location, the department shall prohibit all
18 fishing or removal of any marine life from the artificial reef and
19 within a reasonable buffer until the artificial reef has been
20 evaluated by the department pursuant to the Marine Life
21 Protection Act (Chapter 10.5 (commencing with Section 2850) of
22 Division 3). The department may allow take for research purposes.
23 The department shall establish penalties for violations of any
24 prohibition.

25 6426.5. The Artificial Reef Enhancement Fund is hereby
26 created in the State Treasury. The money in the fund may only be
27 used for the purposes of this article, upon appropriation by the
28 Legislature. Until expended by the department, moneys in the fund
29 shall be deposited in the Pooled Money Investment Fund and the
30 interest deposited in the Artificial Reef Enhancement Fund.

31 6427. The department may approve the conversion of an
32 offshore oil platform or production facility into an artificial reef
33 only if the following criteria are satisfied:

34 (a) The artificial reef will be consistent with the
35 Magnuson-Stevens Fishery Conservation and Management Act
36 (16 U.S.C. Sec. 1801 et seq.) and the National Fishing
37 Enhancement Act of 1984.

38 (b) The alternative of converting the decommissioned offshore
39 oil platform or production facility into an artificial reef in the
40 marine environment provides a net benefit to the marine

1 environment compared to the alternative of removing the facilities
2 from the marine environment.

3 (c) The artificial reef will be consistent with state and federal
4 water quality laws.

5 (d) The artificial reef will be maintained in a manner consistent
6 with navigational safety and all applicable state, federal, and
7 international laws.

8 (e) The artificial reef is consistent with the California Coastal
9 Management Program.

10 (f) (1) The owner or operator of the offshore oil platform or
11 production facility provides sufficient funds to the department for
12 the purposes of conducting all of the following:

13 (A) An evaluation of the platform or facility to determine the
14 benefits of the artificial reef sites to biotic productivity, including
15 any research needed.

16 (B) Activities that meet the requirements of this subdivision,
17 including the costs of reviewing, approving, and permitting the
18 proposed projects, which includes the costs of determining
19 whether the project meets the requirements of all applicable laws
20 and regulations and the costs of environmental assessment and
21 review.

22 (C) Overall management of the reef, including enforcement
23 and monitoring.

24 (D) Ensuring that the owner or operator of the oil platform or
25 production facility indemnifies the state against any and all
26 liability that may result, including defending the state against any
27 claims against the department for any actions the department
28 undertakes pursuant to this article. In adopting requirements under
29 this article, the department shall consult with the Attorney General
30 and may consider a variety of mechanisms, including an
31 agreement to indemnify the state, an insurance policy, a cash
32 settlement, or any other mechanism that ensures that the state can
33 defend itself against any liability claims against the department for
34 any actions the department undertakes pursuant to this article and
35 pay any resulting judgments.

36 (2) Moneys in the Artificial Reef Enhancement Fund shall be
37 used only for the purposes of this article, except that moneys from
38 the fund may not be used for the purposes of Section 6429.3.

39 (g) The owner or operator of the offshore oil platform or
40 production facility applies for, and receives, all required permits

1 issued by any governmental agency, including, but not limited to,
2 the permit issued by the United States Army Corps of Engineers.

3 6427.5. The department shall take title to a decommissioned
4 offshore oil platform or production facility in either state or federal
5 waters if an agreement is reached that will ensure that the cost
6 savings identified and approved by the department are deposited
7 according to Section 6429.3, the requirements of this article are
8 met, the owner or operator has received all applicable government
9 permits and the artificial reef conversion operation is completed,
10 and the state is indemnified from any liability that may result from
11 approving the conversion of an offshore oil platform or production
12 facility as an artificial reef or any liability that may result from the
13 ownership of the reef.

14 6428. (a) The Legislature hereby finds and declares all of the
15 following:

16 (1) The conversion of offshore oil platforms or production
17 facilities into artificial reefs should not be done until there has been
18 a thorough scientific study and evaluation.

19 (2) The costs of such a study shall be borne by the operators of
20 offshore oil platforms or production facilities.

21 (3) Each offshore oil platform or production facility creates a
22 unique environment because of its location, depth, and other
23 ecological factors.

24 ~~(4)~~

25 (b) Because of the significant variations, ~~those~~ scientific
26 studies and evaluations shall be done for each offshore oil platform
27 or production facility for which an application for the use of the
28 oil platform or production facility as an artificial reef has been
29 made to the department.

30 ~~(b)~~

31 (c) Therefore, the department shall determine guidelines for
32 biological evaluation of an oil platform or production facility for
33 use as an artificial reef and shall consult with and advise the
34 California Coastal Commission, the State Lands Commission, and
35 other responsible agencies as to these guidelines. The guidelines
36 shall include, but need not be limited to, the depth of the artificial
37 reef in relation to its value as habitat and the location of the
38 artificial reef in relation to other reefs, both natural and artificial.
39 The guidelines shall not include any discussion of the funds to be
40 generated by the conversion to an artificial reef. The department

1 shall commence working on the guidelines upon receiving an
2 application for the use of the oil platform or production facility as
3 an artificial reef. The department's determination of these
4 guidelines is a necessary part of any consideration of an
5 application. The department shall fully recover its costs of
6 determining the guidelines from the first applicant or the first
7 group of applicants.

8 6429. The department shall ensure that any cost savings are
9 accurately and reasonably calculated. The department may
10 contract or enter into a memorandum of understanding with any
11 other appropriate governmental agency or other party, including
12 an independent expert, to ensure that cost savings are accurately
13 and reasonably calculated. The department shall use and consider
14 any estimates of cost savings made by any governmental agency,
15 including, but not limited to, the Internal Revenue Service,
16 Franchise Tax Board, Minerals Management Service, and State
17 Lands Commission. If the department disagrees with the estimate
18 used by any other agency, the department shall prepare a public
19 report. That public report shall explain any discrepancies and
20 differences between those estimates and provide the basis for the
21 department's finding that other estimates are less reliable and the
22 department's use of a different cost savings estimate. *After these*
23 *procedures have been followed and the department has reviewed*
24 *the information, the department shall determine the cost savings*
25 *resulting from the partial decommissioning. The department's*
26 *determination shall be the basis for the apportionments made*
27 *pursuant to subdivision (a) of Section 6429.3.*

28 6429.1. The oil platform or production facility owner or
29 operator at any time, prior to transfer of title to the state, at its sole
30 discretion, shall have the right to cease participation in the
31 artificial reef conversion and pursue full decommissioning,
32 subject to reimbursement to the state of the reasonable costs and
33 expenses incurred by the state.

34 6429.2. (a) Nothing in this article shall be construed to do any
35 of the following:

36 (1) Relieve the prior owner or operator of an offshore oil
37 platform or production facility from any continuing liability under
38 any of the following if the liability is associated with seepage or
39 release of oil from an offshore oil platform or production facility
40 that was decommissioned pursuant to an order of, or any action

1 taken by, and in accordance with, any applicable rule or regulation
2 of, any federal or state agency:

3 (A) Any state statute or regulation regarding liability for the
4 spilling of oil.

5 (B) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701
6 et seq.).

7 (C) Any other provision of law.

8 (2) Establish any new liability on the part of the state.

9 (3) Require, authorize, or in any way encourage any agency
10 with jurisdiction to approve the artificial reef conversion, in whole
11 or in part, of an offshore oil platform or production facility.

12 (4) Promote, encourage, or facilitate offshore oil exploration,
13 development, and production within California's open coastal
14 waters.

15 (5) Require the United States Department of the Interior's
16 Minerals Management Service or the State Lands Commission to
17 modify, amend, or alter an existing oil and gas lease to approve
18 conversion of an offshore oil platform or production facility.

19 (6) Alter any existing law or applicable rule or regulation of
20 any federal or state agency that establishes liability for damages
21 arising with respect to artificial reefs or reef materials, including,
22 but not limited to, components of decommissioned oil facilities.

23 (7) Alter any existing law or policy that protects or otherwise
24 favors natural reefs.

25 (8) Alter or limit the authority or duties of any state or local
26 agency, including, but not limited to, the State Lands Commission
27 and the California Coastal Commission.

28 (9) Approve any particular method of abandonment.

29 (b) Further, any conversion of an offshore oil platform or
30 production facility for use as an artificial reef shall not be used or
31 counted as mitigation for any environmental impacts or natural
32 resource damages.

33 6429.3. (a) When all applicable local, state, and federal
34 permits are granted to allow any offshore oil platform or
35 production facility to be converted into an artificial reef, a
36 percentage of the cost savings to the owner or operator from
37 converting the platform or facility into an artificial reef, rather than
38 removing the facility, shall be apportioned by the owner or
39 operator to the entities described in subdivision (d) according to
40 the following schedule:

(1) If the offshore oil platform or production facility is located in water the depth of which at mean high tide is less than 200 feet, ~~35~~ 40 percent of the cost savings.

(2) If the offshore oil platform or production facility is located in water the depth of which at mean high tide is at least 200 feet, but less than 400 feet, ~~50~~ 55 percent of the cost savings.

(3) If the offshore oil platform or production facility is located in water the depth of which at mean high tide is 400 feet or more, ~~65~~ 70 percent of the cost savings.

(b) The intent of this section is to establish a voluntary program through which an individual owner or operator of one or more offshore oil platforms or production facilities may choose to participate in a program to create an artificial reef from the platform or facility with the assent of all permitting agencies, whether they are state, local, or federal. However, the owner or operator of a decommissioned offshore oil platform or production facility shall apportion the portion of the savings calculated pursuant to subdivision (a) to the entities described in subdivision (d) if a platform or production facility is converted into an artificial reef in open coastal waters.

(c) This section does not apply to an offshore oil platform or production facility if the majority of the costs of removal of the platform or facility will be paid by the federal government, the State of California, or a grantee of state tide and submerged lands.

(d) The funds described in subdivision (a) shall be apportioned as follows:

(1) ~~Forty-five~~ *Fifty* percent shall be deposited into the California Marine Resources Trust Fund and upon appropriation by the Legislature may be used for the purposes of Division 20.55 (commencing with Section 30951) of the Public Resources Code.

(2) ~~Fifty~~ *Forty-five* percent shall be deposited into the California Endowment for Marine Preservation. The endowment may expend that money for the purposes of Division 20.6 (commencing with Section 30960) of the Public Resources Code.

(3) Five percent shall be deposited by the owner or operator with the board of supervisors of the county immediately adjacent to the location of the facility prior to its decommissioning. The county shall use those funds for projects within “coastal lands and waters,” which, for the purposes of this paragraph, means (1) those areas composed of those tide and submerged lands of the

1 state that are waterward of the mean high tide line and extending
2 seaward to the boundaries of the Exclusive Economic Zone and (2)
3 those areas landward of the mean high tide line that are also within
4 the coastal zone, meaning that area defined and described pursuant
5 to Section 30103 of the Public Resources Code. The projects shall
6 otherwise meet the requirements of Section 30981 of the Public
7 Resources Code.

8 (e) The Legislature finds and declares that the purposes set
9 forth in subdivision (d) are special fund purposes.

10 6429.4. Nothing in this article is intended, and it shall not be
11 construed, to limit or affect the authority or duties of any state or
12 local agency, including, but not limited to, the State Lands
13 Commission and the California Coastal Commission. Nothing in
14 this division is intended, and it shall not be construed, to be an
15 approval of any particular method of abandonment.

16 SEC. 7. Division 20.55 (commencing with Section 30951) is
17 added to the Public Resources Code, to read:

18
19 DIVISION 20.55. CALIFORNIA MARINE RESOURCES
20 TRUST FUND
21

22 30951. Unless the context requires otherwise, the following
23 definitions govern the construction of this article:

24 (a) “Artificial reef” means manmade or natural objects
25 intentionally placed in selected areas of the marine environment
26 to duplicate those conditions that induce production of fish and
27 invertebrates on natural reefs and rough bottoms and that stimulate
28 the growth of kelp or other midwater plant life that creates natural
29 habitat for those species.

30 (b) “Cost savings” are the difference between the estimated
31 cost to the operator or owner of complete removal of an offshore
32 oil platform or production facility and the costs incurred by the
33 operator or owner of converting a platform or facility into an
34 artificial reef.

35 (c) “National Fishing Enhancement Act of 1984” means Title
36 II of Public Law 98-623.

37 (d) “Offshore oil platform or production facility” means
38 platforms, piers, and artificial islands in operation on or before
39 January 1, 2001, and located seaward of mean lower low water,



1 used for oil and gas exploration, development, production,
2 processing, or storage.

3 (e) “Oil” means any kind of petroleum, liquid hydrocarbons,
4 natural gas, or petroleum products or any fraction or residues
5 therefrom.

6 (f) “Open coastal marine resource” means those marine
7 resources that use open coastal waters as their habitat.

8 (g) “Open coastal waters” means the area composed of the
9 submerged lands of the state that are below the mean low water
10 mark extending seaward to the boundaries of the Exclusive
11 Economic Zone.

12 (h) “Reef materials” includes only materials allowed under the
13 National Artificial Reef Plan, adopted under the National Fishing
14 Enhancement Act of 1984 for construction of artificial reefs.

15 (i) “State waters” means waters within the seaward boundary
16 of the state as identified in Section 2 of Article III of the California
17 Constitution.

18 (j) “Trustee” means the Secretary of the Resources Agency
19 and the Director of Fish and Game acting in their role as trustee for
20 the California Marine Resources Trust Fund.

21 30952. (a) The California Marine Resources Trust Fund is
22 hereby created in the State Treasury. The money in the fund may
23 only be used for the purposes of this division, upon appropriation
24 by the Legislature. For the purposes of this article, “fund” refers
25 to the California Marine Resources Trust Fund.

26 (b) The Secretary of the Resources Agency and the Director of
27 Fish and Game shall serve as the trustee of the fund and shall
28 administer the fund in accordance with this division.

29 (c) The trustee may develop and adopt any rules, regulations,
30 and guidelines the trustee determines to be necessary to carry out
31 and enforce this article.

32 30953. (a) The California Marine Resources Trust Fund
33 Advisory Committee is hereby created and shall be appointed by
34 the Governor as follows:

35 (1) One member who shall be an expert in marine science from
36 the University of the California, the California State University, or
37 other accredited university.

38 (2) One member who shall be from a nonprofit public interest
39 organization with an emphasis on the conservation of open coastal
40 marine resources and habitat.

1 (3) One member who shall be an expert in marine fisheries
2 from the University of California, the California State University,
3 or other accredited university.

4 (4) One member who shall be a representative of a marine
5 conservation organization that has an emphasis on sustainable
6 recreational marine activities.

7 (5) Two representatives of the public.

8 (6) Two persons who are serving as elected local government
9 officials for a local governmental agency with jurisdiction over, or
10 directly adjacent to, open coastal waters containing oil platforms
11 or production facilities.

12 (7) One representative of a nonprofit, public interest
13 organization with emphasis on marine conservation.

14 (8) One representative of sport or commercial fishing interests.

15 (b) The Secretary of the Resources Agency, or his or her
16 designee, shall be a member of the advisory committee and shall
17 serve as chairperson.

18 (c) The committee shall meet as often as required, but at least
19 twice per year.

20 (d) Members of the committee shall receive no salary but shall
21 be paid one hundred dollars (\$100) per day for each meeting and
22 shall be reimbursed for all necessary travel expenses. Members of
23 the committee shall serve at the pleasure of their appointing
24 authority.

25 (e) All meetings of the committee shall be noticed and open to
26 the public.

27 (f) Prior to spending any money from the fund, the trustee shall
28 prepare a list of proposed projects. The list of proposed projects
29 shall be available to the advisory committee and the public for 15
30 days prior to any meeting by the committee.

31 (g) The committee shall discuss and prepare a recommendation
32 for the trustee on all proposed projects. This recommendation shall
33 be of an advisory nature only. This shall occur at a public meeting
34 where public testimony on the proposed projects and the
35 recommendations of the advisory committee shall be allowed.

36 (h) The advisory committee's administrative costs shall be paid
37 by fund revenues. Administrative costs for the advisory committee
38 may not exceed 5 percent of the annual revenue of the fund.

1 (i) A member of the advisory committee may not be appointed
2 until one offshore oil platform or production facility has been
3 permitted for decommissioning as an artificial reef.

4 (j) On or before February 1 of each year, the advisory
5 committee shall submit a comprehensive and detailed report to the
6 appropriate fiscal and policy committees of the Legislature for the
7 preceding fiscal year, detailing its activities, fiscal condition, and
8 accomplishments under this division.

9 30954. After the first oil platform or production facility has
10 been permitted for decommissioning, the trustee shall use the
11 funds deposited into the fund to repay any loans received from the
12 state, with interest at the rate accruing to moneys in the Pooled
13 Money Investment Account.

14 30955. (a) The purpose of the California Marine Resources
15 Trust Fund is to create a permanent source of funding for projects
16 that will conserve, protect, restore, and enhance the open coastal
17 marine resources of the state. To achieve this objective, the fund
18 may be used solely for the following purposes:

19 (1) Support applied research into open coastal marine fisheries,
20 marine habitat, or other related research in support of projects to
21 conserve, protect, restore, and enhance the open coastal marine
22 resources of the state. In so doing, the committee shall endeavor
23 to take maximum advantage of the scientific research expertise
24 available from the University of California, the California State
25 University, other institutions of higher learning, and marine
26 science research institutions with expertise in marine resource
27 issues. Funding for research projects shall not exceed 10 percent
28 of the overall funding in any fiscal year.

29 (2) Support projects in open coastal waters that enhance
30 environmentally sustainable marine activities.

31 (3) Support projects in open coastal waters to enhance the
32 habitat for open coastal marine life.

33 (4) Support programs in open coastal waters that lead to
34 enforcement of laws regulating the take of open coastal marine
35 species, the protection of habitat, and the protection and
36 monitoring of open coastal marine species and habitat with an
37 emphasis on innovative approaches.

38 (5) Support programs to aid in the establishment of safe fishing
39 levels and reduce or prevent habitat damage in open coastal waters.

1 (6) Support programs to monitor catch and bycatch and to
2 reduce bycatch in fisheries in open coastal waters managed by the
3 State of California or the United States, or both.

4 (7) *Fund activities of the Department of Fish and Game*
5 *required by the Marine Life Protection Act (Chapter 10.5*
6 *(commencing with Section 2850) of Division 3 of the Fish and*
7 *Game Code).*

8 (8) *Fund activities performed in conjunction with marine*
9 *reserves, marine preserves, and marine sanctuaries.*

10 (9) Eliminate sources of pollution that significantly impacts
11 open coastal waters.

12 ~~(8) Programs~~

13 (10) Fund programs to mitigate beach erosion.

14 (b) The trustee may also do all of the following:

15 (1) Obtain grants from, and contract with, individuals and with
16 private, local, state, and federal agencies, organizations, and
17 institutions.

18 (2) Contract with, or make grants to, conservation and
19 educational organizations; marine institutes; aquariums and
20 museums; institutions of higher education; and local, state, and
21 federal agencies.

22 (3) Loan funds to private, local, state, and federal agencies,
23 organizations, and institutions.

24 (c) For funds spent for the purposes of paragraphs (7) and (8)
25 of subdivision (a), the projects shall significantly benefit coastal
26 lands and waters. For the purposes of this section, “coastal lands
27 and waters” means (1) those areas composed of those tide and
28 submerged lands of the state that are waterward of the mean high
29 tide line and extending seaward to the boundaries of the Exclusive
30 Economic Zone and (2) those areas landward of the mean high tide
31 line that are also within the coastal zone, meaning that area defined
32 and described pursuant to Section 30103.

33 (d) Moneys in the fund shall not be used for any purpose other
34 than those set forth in this section. Funds spent pursuant to this
35 section shall be used to supplement, and not supplant, state
36 funding.

37 30956. The trustee shall coordinate its activities with the
38 California Coastal Commission, the San Francisco Bay
39 Conservation and Development Commission, the State Lands
40 Commission, and appropriate federal agencies, including the



1 National Marine Fisheries Service and the United States
2 Department of the Interior's Minerals Management Service.
3 Nothing in this article limits the authority and responsibility of any
4 of these agencies.

5 30957. The trustee may receive charitable contributions or
6 any other source of income that may be lawfully received.

7 SEC. 8. Division 20.6 (commencing with Section 30960) is
8 added to the Public Resources Code, to read:

9
10 DIVISION 20.6. CALIFORNIA ENDOWMENT FOR
11 MARINE PRESERVATION
12

13 CHAPTER 1. FINDINGS AND DECLARATIONS
14

15 30960. (a) The Legislature hereby finds and declares all of
16 the following:

17 (1) The Pacific Ocean and its rich marine living resources are
18 of great environmental, economic, aesthetic, recreational,
19 educational, scientific, social, cultural, and historic importance to
20 the people of California.

21 (2) Programs to conserve, protect, restore, and enhance the
22 marine fishery resources of the state are needed because of past
23 overfishing and damage to marine habitats and their ecosystems.
24 These programs should be coordinated with efforts to reduce
25 overfishing and damage to marine habitats and their ecosystems.

26 (3) A program that will speed up the decommissioning of
27 offshore oil platforms will enhance the environmental, aesthetic,
28 and recreational features of the coastal environment. Any offshore
29 oil platforms that are nearing possible retirement should be
30 removed as quickly as possible to improve the aesthetic character
31 of the areas of the California coast that have been impacted by
32 offshore oil activities.

33 (4) The State of California recognizes the need to formulate its
34 environmental and resource management policies based on the
35 best available scientific information and should utilize the
36 University of California, the California State University, other
37 institutions of higher learning, and marine science research
38 institutions to the fullest extent possible to assist it in achieving that
39 goal.

(b) It is the intent of the Legislature that, consistent with the conservation, protection, restoration, and enhancement of open coastal marine resources, any offshore oil platform or production facility, or any part thereof, that is converted to an artificial reef shall be a no-take zone, and that sport and commercial fishing shall be prohibited there until the artificial reef has been evaluated by the Department of Fish and Game pursuant to the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code).

CHAPTER 2. DEFINITIONS

30965. Unless the context requires otherwise, the following definitions govern the construction of this division:

(a) “Artificial reef” means manmade or natural objects intentionally placed in selected areas of the marine environment to duplicate those conditions that induce production of fish and invertebrates on natural reefs and rough bottoms and that stimulate the growth of kelp or other midwater plant life which creates natural habitat for those species.

(b) “Board” means the Board of Directors of the California Endowment for Marine Preservation.

(c) “Cost savings” are the difference between the estimated cost to the operator or owner of complete removal of an offshore oil platform or production facility and the costs incurred by the operator or owner of converting a platform or facility into an artificial reef.

(d) “Endowment” means the California Endowment for Marine Preservation.

(e) “National Fishing Enhancement Act of 1984” means Title II of Public Law 98-623.

(f) “Offshore oil platform or production facility” means platforms, piers, and artificial islands in operation on or before January 1, 2001, and located seaward of mean lower low water, used for oil and gas exploration, development, production, processing, or storage.

(g) “Oil” means any kind of petroleum, liquid hydrocarbons, natural gas, or petroleum products or any fraction or residues therefrom.

1 (h) “Open coastal marine resource” means those marine
2 resources that use open coastal waters as their habitat.

3 (i) “Open coastal waters” means the area composed of the
4 submerged lands of the state that are below the mean lower low
5 water extending seaward to the boundaries of the Exclusive
6 Economic Zone.

7 (j) “Reef materials” includes only materials allowed under the
8 National Artificial Reef Plan, adopted under the National Fishing
9 Enhancement Act of 1984 for construction of artificial reefs.

10 (k) “State waters” means waters within the seaward boundary
11 of the state as identified in Section 2 of Article III of the California
12 Constitution.

13
14 CHAPTER 3. ESTABLISHMENT
15

16 30970. The California Endowment for Marine Preservation is
17 hereby established. The endowment is subject to this division and
18 to the Nonprofit Public Benefit Corporation Law (Part 2
19 (commencing with Section 5110), Division 2, Title 1,
20 Corporations Code). If there is a conflict between this division and
21 the Nonprofit Public Benefit Corporation Law, this division shall
22 prevail.

23 30971. (a) Nothing in this division shall be construed to do
24 any of the following:

25 (1) Relieve the prior owner or operator of an oil facility from
26 any continuing liability under any of the following if the liability
27 is associated with seepage or release of oil from an oil facility that
28 was decommissioned pursuant to an order of, or any action taken
29 by, and in accordance with, any applicable rule or regulation of any
30 federal or state agency.

31 (A) Any state statute or regulation regarding liability for the
32 spilling of oil.

33 (B) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701
34 et seq.).

35 (C) Any other provision of law.

36 (2) Establish any new liability on the part of the state.

37 (3) Require, authorize, or in any way encourage any agency
38 with jurisdiction to approve the reefing, in whole or in part, of an
39 oil platform.

(4) Promote, encourage, or facilitate offshore oil exploration, development, and production within California's open coastal waters.

(5) Require the United States Department of the Interior's Minerals Management Service or the State Lands Commission to modify, amend, or alter an existing oil and gas lease to approve the reefing of an oil platform in place.

(6) Alter any existing law that establishes liability for damages arising with respect to artificial reefs or reef materials, including, but not limited to, components of decommissioned oil facilities.

(7) Alter any existing law or policy that protects or otherwise favors natural reefs.

(8) Alter or limit the authority or responsibility of the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the State Lands Commission, the National Marine Fisheries Service, or the United States Department of the Interior's Minerals Management Service.

(9) Promote or encourage any particular method of decommissioning.

(b) Further, any decommissioning of an offshore oil platform or production facility for use as an artificial reef shall not be used or counted as mitigation for any environmental impacts or natural resources damages.

CHAPTER 4. BOARD OF DIRECTORS

30975. The endowment is governed by the Board of Directors of the California Endowment for Marine Preservation.

30976. The board consists of nine members appointed by the Governor as follows:

(a) One member who shall be an expert in marine science from the University of California, the California State University, or other accredited university.

(b) One member who shall be from a nonprofit public interest organization with an emphasis on the conservation of open coastal marine resources and habitat.

(c) One member who shall be an expert in marine fisheries from the University of California, the California State University, or other accredited university.

1 (d) One member who shall be a representative of a marine
2 conservation organization that has an emphasis on sustainable
3 recreational marine activities.

4 (e) The Secretary of the Resources Agency, or his or her
5 designee, who shall serve as chairperson.

6 (f) A representative of the public.

7 (g) Two persons who are serving as elected local government
8 officials for a local governmental agency with jurisdiction over, or
9 directly adjacent to, open coastal waters containing oil platforms
10 or production facilities.

11 (h) A representative of a nonprofit, public interest organization
12 with emphasis on marine conservation.

13 30977. The term of office of each member of the board is six
14 years. However, the term of office for the first board member
15 appointed pursuant to subdivisions (a), (b), and (c) of Section
16 30976 is two years. The term of office for the first board members
17 appointed pursuant to subdivisions (f) and (g) of Section 30976 is
18 four years.

19 30978. Any vacancy on the board shall be filled by the
20 Governor by appointment for the unexpired term.

21 30979. (a) The board shall conduct its initial meeting as soon
22 as possible after incorporation.

23 (b) The board shall meet as often as required, but at least twice
24 per year.

25 (c) Members of the board shall attend at least 50 percent of all
26 duly convened meetings of the board in a calendar year. A member
27 who fails to attend at least 50 percent of all duly convened
28 meetings of the board in a calendar year forfeits membership on
29 the board. The vacancy shall be filled pursuant to Section 30978.

30 (d) Members of the board shall receive no salary but shall be
31 paid one hundred dollars (\$100) per day for each meeting and shall
32 be reimbursed for all necessary travel expenses.

33 (e) The endowment board's administrative costs shall be paid
34 by fund revenues. Administrative costs for the advisory committee
35 may not exceed five percent of the annual revenue of the fund.

36
37 CHAPTER 5. POWERS AND DUTIES
38

39 30980. The members of the board first appointed shall serve
40 as incorporators of the endowment and shall take whatever actions

1 are necessary to establish the endowment pursuant to the
2 Nonprofit Public Benefit Corporation Law (Part 2 (commencing
3 with Section 5110), Division 2, Title 1, Corporations Code) once
4 a majority of the board is appointed.

5 30980.5. The endowment shall not be incorporated until one
6 offshore oil platform or production facility has been permitted for
7 decommissioning as an artificial reef. The incorporation shall not
8 occur until all necessary applicable government permits for
9 decommissioning as an artificial reef have been received by an
10 owner or operator of the oil platform or production facility and the
11 Department of Fish and Game has received approval from the
12 appropriate federal agencies for a permit for an artificial reef for
13 the decommissioned offshore oil platform or production facility.

14 30981. (a) The purpose of the endowment is to create a
15 permanent source of funding for projects that will conserve,
16 protect, restore, and enhance the open coastal marine resources of
17 the state. To achieve this objective, the endowment may do any or
18 all of the following:

19 (1) Support applied research into open coastal marine fisheries,
20 marine habitat, or other related research in support of projects to
21 conserve, protect, restore, and enhance the open coastal marine
22 resources of the state. In so doing, the board shall endeavor to take
23 maximum advantage of the scientific research expertise available
24 from the University of California, the California State University,
25 other institutions of higher learning, and marine science research
26 institutions with expertise in marine resource issues. Funding for
27 research projects shall not exceed 10 percent of the overall funding
28 in any fiscal year.

29 (2) Support projects in open coastal waters that enhance
30 environmentally sustainable marine activities.

31 (3) Support projects in open coastal waters to enhance the
32 habitat for open coastal marine life.

33 (4) Support programs in open coastal waters that lead to
34 enforcement of laws regulating the take of open coastal marine
35 species, the protection of habitat, and the protection and
36 monitoring of open coastal marine species and habitat with an
37 emphasis on innovative approaches.

38 (5) Support programs to aid in the establishment of safe fishing
39 levels and reduce or prevent habitat damage in open coastal waters.

(6) Support programs to monitor catch and bycatch and to reduce bycatch in fisheries managed by the State of California and by the United States.

(b) The board may also do all of the following:

(1) Obtain grants from, and contract with, individuals and with private, local, state, and federal agencies, organizations, and institutions.

(2) Contract with, or make grants to, conservation and educational organizations; marine institutes; aquariums and museums; institutions of higher education; and local, state, and federal agencies.

(3) Loan funds to private, local, state, and federal agencies, organizations, and institutions.

(c) The endowment shall create a business plan for a five-year period. The endowment shall update the plan annually.

(d) On or before February 1 each year, the endowment shall submit a report to the appropriate fiscal and policy committees of the Legislature for the preceding fiscal year. The report shall include all of the following:

(1) The updated business plan created pursuant to subdivision (c).

(2) A comprehensive and detailed report of the endowment's operations, activities, financial condition, and accomplishments under this section.

(3) A listing of each recipient of a grant from the endowment and the purposes and amount of that grant.

(4) A listing of any loan that the endowment has received and the plan for repaying the loan.

(5) A report of each independent audit required pursuant to subdivision (e) of Section 30985.

30981.5. Members of the board and appropriate staff shall be available to testify before appropriate committees of the Legislature.

30982. The endowment shall not contribute to, or otherwise support, any political party, candidate for elective public office, or ballot measure.

30983. The endowment may hire employees and may obtain legal counsel. No employee of the endowment is an employee of the State of California. No employee of the endowment is subject to Chapter 10.3 (commencing with Section 3512) of, or Chapter

1 10.5 (commencing with Section 3525) of, Division 4 of Title 1 of
2 the Government Code. Employees of the endowment have the
3 right to representation consistent with the National Labor
4 Relations Act (29 U.S.C. Sec. 151 et seq.).

5 30984. The endowment shall coordinate its activities with the
6 Department of Fish and Game, the California Coastal
7 Commission, the San Francisco Bay Conservation and
8 Development Commission, the State Lands Commission, and
9 appropriate federal agencies, including the National Marine
10 Fisheries Service and the United States Department of the
11 Interior's Minerals Management Service. Nothing in this division
12 limits the authority and responsibility of any of these agencies.

13
14 CHAPTER 6. FINANCIAL TRANSACTIONS AND AUDITS
15

16 30985. (a) The endowment may receive charitable
17 contributions or any sources of income that may be lawfully
18 received, including loans from the state.

19 (b) The endowment shall administer any funds it receives in
20 accordance with this division.

21 (c) The endowment shall invest and manage any funds it
22 receives so that the investments shall provide a source of income
23 in perpetuity and the principal amount consisting of charitable
24 contributions and donations, including cost savings donated
25 pursuant to Section 6429.3 of the Fish and Game Code, shall not
26 be spent. Any returns on investments made by the endowment are
27 the only funds that shall be available for expenditure by the
28 endowment.

29 (d) The endowment shall invest and manage any funds it
30 receives in accordance with the Nonprofit Public Benefit
31 Corporation Law (Part 2 (commencing with Section 5110),
32 Division 2, Title 1, Corporations Code).

33 (e) The accounts of the endowment shall be audited annually
34 in accordance with generally accepted auditing standards by
35 independent certified public accountants.

36 (f) The financial transactions of the endowment for any fiscal
37 year may be audited by the Bureau of State Audits. A report of each
38 audit completed pursuant to this subdivision shall be made to the
39 Legislature and the Governor.

1 (g) Each recipient of assistance by grant, contract, or loan
2 pursuant to this division shall keep records reasonably necessary
3 to disclose fully the amount of the assistance, the disposition of the
4 assistance, the total cost of the project or undertaking in connection
5 with which the assistance is given or used, the amount and nature
6 of that portion of the cost of the project or undertaking supplied by
7 other sources, and other records that will facilitate an effective
8 audit. Each recipient of a fixed price contract awarded pursuant to
9 competitive bidding procedures is exempt from the requirements
10 of this subdivision.

11 (h) The endowment, or its authorized representative, and the
12 Bureau of State Audits shall have access to any records necessary
13 for the purpose of auditing and examining all funds received or
14 expended by the recipients of assistance.

15 30987. Nothing in this division is intended, nor shall it be
16 construed, to limit or affect the authority or duties of any state or
17 local agency, including, but not limited to, the State Lands
18 Commission, the California Coastal Commission, and the
19 Department of Fish and Game. Nothing in this division is intended,
20 nor shall it be construed, as an approval of any particular method
21 of abandonment.

22 SEC. 9. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

